IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15517 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

M SHARMA & COMPANY

Versus

DHARAMSHIBHAI BACHUBHAI VAJA

Appearance:

1. Special Civil Application No. 15517 of 2003

MR MANISH R BHATT for Petitioner No. 1

MR RD RAVAL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 07/07/2004

ORAL JUDGEMENT

This petition is placed before me for confirmation of interim relief and the matter was already admitted earlier. Both the learned advocates appearing

for the parties however submit that the arguments to be advanced for confirmation/vacating the interim relief would be the same for final disposal of the petition and therefore request me to take up the matter for final disposal. Accordingly, the petition is taken up for final disposal today.

2. The short question which arises in the present petition is with respect to the legality of the ex-parte award passed by the Labour Court, Bhavnagar on 28th July, 2000. It is the case of the petitioner that after having approached this Court against the said ex-parte award, the petitioner approached the Labour Court for setting aside the ex-parte award, however the said application of the petitioner for setting aside the ex-parte award also came to be rejected by the order dated 16.9.2003. The learned advocate for the petitioner submits that there were valid reasons which prevented the petitioner from appearing before the Labour Court inasmuch as the entire business of the petitioner was closed down and proper instructions could not be passed on to the representative to defend the petitioner before the Labour Court. He, therefore, submits that the Labour Court ought to have granted the application for setting aside the ex-parte award. Learned advocate for the respondent, however submits that the workman is put to great difficulty on account of the negligence and lethargy on the part of the petitioner and even if this Court is of the opinion that the matter be remanded for fresh hearing on merits, the petitioner should be put to some terms.

3. Considering the submissions made before me, I am of the opinion that the ends of justice would be served if the matter is remanded to the Labour Court for fresh disposal after hearing both the sides. This, however, is conditional upon the petitioner paying an amount of Rs.25,000/- (Rupees twenty five thousand) to the respondent workman within a period of four weeks from today. The impugned orders dated 28th July 2000 and 16th September, 2003 are therefore quashed and set aside. The matter is remanded to the Labour Court, Bhavnagar for fresh adjudication after hearing both the sides. Considering the fact that the dispute is old one, the Labour Court, Bhavnagar is requested to accord priority consideration to the dispute and dispose of the same within a period of six months, as far as practicable.

4. In view of the above directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent.

(Akil Kureshi, J.)

(vjn)